

Formal Objections and Rejections

Claim 1 stands rejected under 35 U.S.C. § 112, second paragraph, as indefinite for containing both a broad and a narrower recitation of the eggshells used in the claimed method and for use of the term “elevated”. This rejection is respectfully traversed.

Applicant has amended claim 1 so that only the narrower recitation regarding the source of eggshells remains in the claim. With regard to “elevated”, Applicant points out that the claim recites “at room temperature or elevated temperature” thus clearly indicating that the “elevation” in temperature is in relation to room temperature. This phrase, reciting temperatures at or above room temperature is not indefinite. Therefore, Applicant respectfully requests that the of claim 1 under 35 U.S.C. § 112, second paragraph, be withdrawn.

Claim 4 stands objected to under 37 C.F.R. § 1.75 as improperly multiple dependent, and under 35 U.S.C. § 101 and 112, second paragraph, for failure to recite any method steps. As amended herein, claim 4 complies with U.S. practice as a method claim drawn to “administering” the composition provided by this invention, and claim 4 refers to earlier claims only in the alternative. Therefore Applicant respectfully requests that the objection to and the rejection of claim 4 under 35 U.S.C. §§ 101 and 112, second paragraph, be withdrawn.

Art Rejection

Claim 1 stands rejected under 35 U.S.C. § 103(a) as unpatentable over EP 0 347 899. This rejection is respectfully traversed.

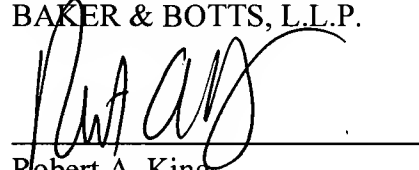
U.S. Serial No. 08/765,623

It is acknowledged in the Office Action that the '899 patent differs from the present application in that the '899 patent teaches sterilization of eggshells after grinding and does not teach use autoclave to sterilize the ground eggshells. The Examiner constructs Applicants procedure out of unconnected teachings in the art, using the disclosure as a template. This is impermissible use of the Applicant's disclosure. The only suggestion of record to use the autoclave for sterilization of eggshells, and the only suggestion to autoclave the eggshells before grinding, are both in Applicant's disclosure. Thus, in the absence of Applicant's disclosure, there is no suggestion to prepare putamen ovi as disclosed and claimed in the present application, and Applicant's invention would not have been obvious over the '899 patent. Applicant respectfully requests that the rejection under 35 U.S.C. § 103 be withdrawn.

Respectfully submitted,
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